

JUN 02 2004

Attorney Docket No. P64053US0

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of Brigitte FALCONNIER

Via Facsimile
703-872-9306

Application No.: 09/423,665

Art Unit: 1761

Filed: November 22, 1999

Examiner: Curtis Edward SHERRER

For: NOVEL CLEAR BEVERAGE OPTIONALLY ALCOHOLIC CONTAINING ANETHOL
AND CLOUDY DILUTED BEVERAGE OBTAINED BY DILUTIONPETITION FOR EXTENSION OF TIME AND
REQUEST FOR PARTIAL REFUND OF EXTENSION FEEMail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

OFFICIAL

Sir:

Petition is made, by facsimile, for a three-month extension of time for response pursuant to 37 CFR 1.136(a). The \$950.00 fee is attached. If this fee is inaccurate, please debit or credit the requisite amount to Deposit Account No. 06-1358.

The instant petition is filed without prejudice to Applicant's rights in connection with Applicant's paper filed April 2, 2004, requesting reconsideration of the finality of the Office Action mailed December 2, 2003, and the refusal to enter the after-final amendment, filed December 31, 2001, as requested in the continued prosecution application (CPA) filed February 28, 2002, and requesting, accordingly, a new Office Action reflecting examination of the claims as so amended.

No official action on the aforesaid request for reconsideration has been received. However, Applicant's undersigned representative was informed - during a telephone discussion with Examiner Milton I. Cano on June 2, 2004, confirmed in a paper that the Examiner sent by facsimile on June 2, 2004 - that finality of the Office Action would be withdrawn, but the time period for reply would not be restarted and Applicant must reply within the time period set in the final Office Action, which reply must address the grounds of rejection as set forth in the final Office Action. Neither the Examiner, nor the facsimile confirmation subsequently sent by the Examiner, gave any clear

5/04/2004 CNGUYEN 00000007 09423665

FC:1253

950.00 OP

PAGE 50 * RCVD AT 8/22/2004 7:38:43 PM [Eastern Daylight Time] * SVR:USPTO-EFAXF-4/1 * DNS:8729306 * CSD:2023035350 * DURATION (min-ss):02:08

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11/24/2004

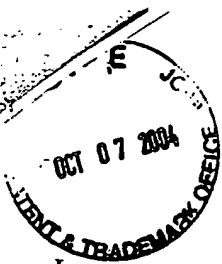
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. P64053US0 307
DEP 3
REF Room

In re application of Brigitte FALCONNIER

Application No.: 09/423,665

Filed: November 22, 1999

Art Unit: 1761

Examiner: Curtis Edward SHERRER

For: NOVEL CLEAR BEVERAGE OPTIONALLY ALCOHOLIC CONTAINING ANETHOL
AND CLOUDY DILUTED BEVERAGE OBTAINED BY DILUTION

REVISED REQUEST FOR REFUND OF FEE FOR EXTENSION OF TIME

Mail Stop 16
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

On June 2, 2004, a request for *partial* refund of the \$950 fee paid for extension of time was filed, i.e., as part of the extension of time, itself, via facsimile. The extension of time was filed following the "Final" Office Action mailed December 2, 2003 ("the December 2 Office Action"). A copy of the request for refund, which is self explanatory, is attached hereto, along with a copy of the corresponding PTO "Auto-Reply Facsimile Transmission," confirming its receipt by the PTO.

In view of the PTO "Decision on Petition" ("the Decision") (copy attached), mailed September 21, 2004, a **complete refund** of the \$950 fee paid is due. The Decision *vacates* the December 2 Office Action and, consequently, the time period set for reply, i.e., because the December 2 Office Action did not take into account the amendment filed December 31, 2001 . . . the application will be forwarded to the examiner for a new Office Action.

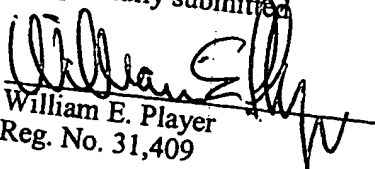
In effect, the Decision made filing the extension of time, and payment of the associated fee, *unnecessary*, i.e., by vacating the December 2 Office Action and time period set for reply.

Accordingly, the fee being unnecessarily paid, **refund** of the \$950 fee paid June 2, 2004, for extension of time, is in order.

JACOBSON HOLMAN PLLC
400 Seventh Street, N.W.
Washington, D.C. 20004
Telephone: (202) 638-6666
Fax: (202) 393-5350
Date: October 7, 2004
WEP/bad

Respectfully submitted

By:


William E. Player
Reg. No. 31,409

Attachments: (1) Request for Refund, filed 06-02-04, & Auto-Reply Facsimile Transmission
(2) Decision on Petition, mailed 09-21-04



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Attorney Docket No. P64053US0 307

DEP 3
REF Room

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of Brigitte FALCONNIER

Application No.: 09/423,665

Art Unit: 1761

Filed: November 22, 1999

Examiner: Curtis Edward SHERRER

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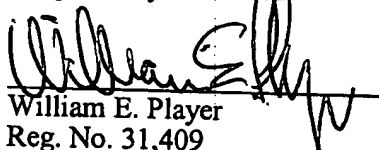
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UNITED STATES PATENT AND TRADEMARK OFFICE

P64053058

DIC 9/29/04
TC 9-29-04
Mailed: SEP 21 2004



Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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Paper Number

In re application of
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Serial No. 09/423,665
Filed: November 22, 1999
For: NOVEL CLEAR BEVERAGE OPTIONALLY
ALCOHOLIC CONTAINING ANETHOL AND CLOUDY
DILUTED BEVERAGE OBTAINED BY DILUTION

DECISION ON
PETITION

COPY

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This is a response to the reconsideration of the PETITION UNDER 37 C.F.R. §1.181 TO WITHDRAW FINALITY OF THE OFFICE ACTION mailed December 31, 2001.

Applicant received a decision on their request on June 2, 2004, whereby the petition was granted and it was held that the period for response set forth in the December 2, 2003 office action still applied. However the office action of December 2, 2003 did not take into consideration the amendment that was filed December 31, 2001. Applicants filed a request for a Continued Prosecution Application on February 28, 2002. The CPA Transmittal instructed that the amendment filed on December 31, 2001 was to be entered.

DECISION

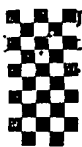
The instant request has been accepted as a reconsideration of the petition decision of June 2, 2004 under the provisions of 37 CFR 1.181 (no fee).

The amendment filed December 31, 2001 will be entered and the application shall be forwarded to the examiner for a new office action.

The Petition is GRANTED.

Jm Stone
Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Jacobson Holman PLLC
400 Seventh Street, N.W.
Washington, D.C. 20004-2201



USPTO

to reply fax to 2023935350 COMPANY:

6/2/2004 7:41 PM PAGE 1/001

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Auto-Reply Facsimile Transmission



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TO:

Fax Sender at 2023935350

Fax Information

Date Received:

6/2/2004 7:38:43 PM [Eastern Daylight Time]

Total Pages:

6 (including cover page)

ADVISORY: This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

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Page
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JACOBSON, JOHAN

NO. 555 P.

Attorney Docket No. P64053US0

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In re application of Brigitte FALCONNIER

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703-872-9396

Application No.: 09/423,665

Art Unit: 1761

Filed: November 22, 1999

Examiner: Curtis Edward SHERRER

For: NOVEL CLEAR BEVERAGE OPTIONALLY ALCOHOLIC CONTAINING ANETHOL
AND CLOUDY DILUTED BEVERAGE OBTAINED BY DILUTION

TRANSMITTAL

Mail Stop AP
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith, by facsimile, are:

- ☒ Notice of Appeal and Request for Refund of Associated Fee
- ☒ Petition for Extension of Time and Request for Partial Refund of Extension Fee
- ☒ Fee payment ☒ Payment Form PTO-2038 (credit card) for \$1280 is attached.
- ☐ Charge \$ * to Deposit Account No. 06-1358.

Fee Calculation				
Excess Claims				
	Nº of Claims	Highest Nº Paid For	Excess Claims	Small Entity Fee
Total	*	0	0	\$9 = \$
Ind.	*	0	0	\$143 = \$
() Multiple Dependent Claims (1 st Filing)			0	\$145 = \$
Extension of Time Fee				\$330
Other: Notice of Appeal				\$320
Total Fee Due				\$0 \$1280

- ☒ If a petition for extension of time is necessary, but not enclosed, then this acts as the petition. Charge any fees additionally necessary in connection herewith to Deposit Account No. 06-1358.

JACOBSON HOLMAN PLLC
400 Seventh Street, N.W.
Washington, D.C. 20004-2201
Tel. (202) 638-6666
Fax (202) 393-5350
Date: June 2, 2004

By

William E. Player
William E. Player
Registration No. 31,409

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**PETITION FOR EXTENSION OF TIME AND
REQUEST FOR PARTIAL REFUND OF EXTENSION FEE**

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Sir:

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Application No. 09/423,665

indication whether the after-final amendment (requested in the CPA, as explained above) would be entered pursuant to Applicant's request for reconsideration.

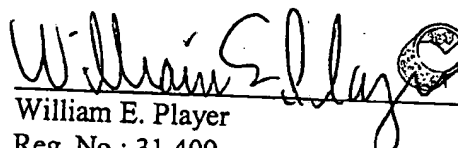
During a subsequent telephone conversation with Examiner Curtis Sherrer on June 2, 2004, Examiner Sherrer informed Applicant's undersigned representative that a Notice of Appeal (or other appropriate after-final paper) would still need to be filed on June 2, 2004, the non-extendable (statutory) deadline for responding to the final Office Action. Although finality of the Office Action would be withdrawn (as explained above), Examiner Sherrer indicated that the withdrawal was not yet *official*, since it had not been mailed.

Accordingly, partial refund of the \$950 extension fee – in the amount of \$530 – is requested. That is, had the request for reconsideration, filed April 2, 2004, been timely acted on, there would have been sufficient time to file the necessary reply to the final Office Action by May 2, 2004, with a two-month extension and the corresponding \$420 extension fee. For the record, Applicant's representatives requested timely action on the request for reconsideration by telephone, *inter alia*, on or about April 27, 2004.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By


William E. Player
Reg. No.: 31,409

COPY

400 Seventh Street, N.W.
Suite 600
Washington, D.C. 20004
Tel. 202-638-6666
Fax 202-393-5350
Date: June 2, 2004
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